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Bill to incorporate Atlantic
and N.C. railroad

1852

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[HOUSE DOCUMENT, No 30.]

A BILL
TO INCORPORATE
THE
ATLANTIC AND NORTH CAROLINA
RAILROAD COMPANY.



RALEIGH:
SEATON GALES, PRINTER TO THE LEGISLATURE.

1852

HOUSE OF COMMONS, Nov. 4, 1852.

[Introduced by Mr. WARD.--Read first time and passed, and referred to Committee on Internal Improvements.]

HOUSE OF COMMONS, Nov. 10, 1852.

[Ordered that the Bill and Amendments proposed be laid, on the table and printed.]

A BILL

To Incorporate the Atlantic and North Carolina Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a railroad communication between the North Carolina railroad, at or near the town of Goldsboro', and Beaufort harbor, by the way of Kinston, Trenton and Newbern, the formation of a corporate company, with the capital stock of nine hundred thousand dollars, is hereby authorized, to be called the Atlantic and North Carolina Railroad Company, and when formed, in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic, for ninety-nine years.

II. That the said company be, and the same is hereby authorized, to construct a railroad commencing at a point at or near the town of Beaufort, in Carteret county, thence by the most practicable route to the town of Newbern, and thence the most practicable route by Trenton and Kinston, to the terminus of the North Carolina Railroad, at or near the town of Goldsboro', in the county of Wayne.

III. That for the purpose of forming said capital stock of said company, the following persons be, and the same are hereby appointed commissioners: Isaac Ramsey, of Carteret county; Alonzo T. Jerkins, of Newbern; Lucien J. Becton, of Jones; William C. Loftin, of Lenoir;

6 Charles Edwards, of Greene, and Elisha Pipkin, of
 7 Wayne: That it shall, and may be lawful to open books
 8 in the town of Beaufort, under the direction of Richard
 9 Hall, M. F. Arendell, Capt. — Ducan, Josiah F.
 10 Bell, or any three of them; at Newbern, William G.
 11 Bryan, Charles Slover, John Blackwell, John R. Justice,
 12 William H. Washington, George S. Stevenson, Moses
 13 W. Jarvis, Edward R. Stanly, Fred. P. Latham, Israel
 14 Disosway, Hardy B. Lane, Sen., James C. Stevenson,
 15 Henry G. Cutler, Alex. Miller, Alex. Mitchell; at Tren-
 16 ton, Dr. John Shackelford, C. Williams, Benj. Askew,
 17 Joseph Kincey, Sen., Joseph Whitty; at Kinston, Dr.
 18 Thomas Woodley, Jno. C. Washington, Louis Desmond,
 19 Nicholas Hunter; at Goldsboro', W. S. G. Andrews, W.
 20 B. Gulick, Thomas Kennedy, William B. Edmundson,
 21 W. K. Lane; at Waynesboro', Richard Washington,
 22 Dr. Daniel Cogdale; at Smithfield, Wm. H. Watson,
 23 Wm. S. Ballinger, Thomas Lockhart, Wm. H. Morning,
 24 Linn B. Sanders; at Raleigh, Romulus M. Saunders,
 25 George W. Mordecai, W. W. Holden, John H. Bryan,
 26 Edward Yarbrough, Willis Whitaker; at Jacksonville,
 27 Geo. Ward, John M. Franks, John A. Averett, Owen
 28 Huggins; at Swansboro', David W. Sanders, R. McLane,
 29 C. B. Glover, Daniel Hargate, Elijah Furgerson; Joshua
 30 Rann, and Henry H. Harper, of Snow Hill; James
 31 Williams, Henry Beat, and Wm. A. Darken, of Greene
 32 county.

IV. That all who may hereafter be authorized to open
 2 books for subscription of stock, by the commissioners
 3 herein appointed for that purpose, shall open said books
 4 at any time after the ratification of this act, twenty days
 5 previous notice being given in some one or more of the
 6 public newspapers in this State; and, that the said books
 7 when opened, shall be kept open for the space of thirty
 8 days at least, and as long thereafter as the commissioners
 9 first above named shall direct; and, that all subscrip-

tion of stock shall be in shares of one hundred dollars, the subscriber paying at the time of making such subscription, five dollars on each share thus subscribed, to the person authorized to receive such subscription ; and, in case of failure to pay said sum, all such subscription shall be void and of no effect ; and, upon closing the books, all such sums as shall have been thus received of subscribers, on the first cash instalment, shall be paid over to the general commissioners named in the third section of this act, by the persons receiving them ; and for failure thereof, such person or persons shall be liable to said general commissioners before the organization of said company, and to the company itself after its organization, to be recovered in the Superior Court of law in the county where such delinquent resides, or if he reside out of the State, then in any court of such State having competent jurisdiction. The said general commissioners shall have power to call on and require all persons empowered to receive subscription, at any time, and from time to time, as a majority of them may think proper, to make return of the stock by them respectively received, and to make payments of all sums made by the subscribers ; that all persons receiving subscriptions of stock shall pass a receipt to the subscriber, for the payment of the first instalment, as heretofore required to be paid ; and, upon their settlement with the general commissioners, as aforesaid, it shall be the duty of said general commissioners, in like manner, to pass their receipt for all sums of money thus received, to the person from whom received, and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them.

V. It shall be the duty of said general commissioners to direct and authorize the keeping open of books, for the subscription of stock in the manner above described, until the sum of three hundred thousand dollars shall

5 have been subscribed to the capital stock of said com-
 6 pany; and, that as soon as the sum of three hundred
 7 thousand dollars shall have been subscribed, and the
 8 first instalment of five dollars per share on said sum
 9 shall have been received by the general commissioners,
 10 said company shall be regarded as formed; and the said
 11 commissioners or a majority of them shall sign and seal
 12 a duplicate declaration to that effect, with the names of
 13 the subscribers appended, and cause one of the said
 14 duplicates to be deposited in the office of the Secretary
 15 of State; and, thenceforth, from the closing of the books
 16 for subscription as aforesaid, the said subscribers to the
 17 stock shall form a body politic and corporate, in deed
 18 and in law, for the purposes aforesaid, by the name and
 19 style of the Atlantic and North Carolina Railroad Com-
 20 pany.

VI. That, whenever the sum of three hundred thousand
 2 dollars shall be subscribed, in manner and form aforesaid,
 3 the subscribers, their executors, administrators and as-
 4 signs, shall be, and they are hereby declared to be in-
 5 corporated into a company, by the name and style of
 6 the Atlantic and North Carolina Railroad Company,
 7 and by that name shall be capable, in law and equity,
 8 of purchasing, holding, selling, leasing and conveying
 9 estates, real, personal and mixed, acquiring the same by
 10 gift or devise, so far as shall be necessary for the purposes
 11 embraced within the scope, object and intent of this
 12 charter, and no farther; and shall have perpetual suc-
 13 cession, and by their corporate name may sue and be
 14 sued, plead and be impleaded in any court of law and
 15 equity in the State of North Carolina, and may use a
 16 common seal, which they may alter and renew at pleas-
 17 ure; and shall have and enjoy all other rights and im-
 18 munities which other corporate bodies may, and of right
 19 do exercise; and may make all such by-laws, rules and
 20 regulations, as are necessary for the government of the

21 corporation, or effecting the object for which it is created,
22 not inconsistent with the constitution and laws of the
23 United States and of this State.

VII. That notice of process upon the principal agents of
2 said company, or the president or any of the directors
3 thereof, shall be deemed and taken to be due and lawful
4 notice of service of process upon the company, so as
5 to bring it before any court within the State of North
6 Carolina.

VIII. That, as soon as the sum of three hundred thousand
2 dollars shall have been subscribed in manner and form
3 aforesaid, it shall be the duty of the general commis-
4 sioners, appointed under the third section of this act, to
5 appoint a time for the stockholders to meet at the town
6 of Newbern, in Craven county, which they shall cause
7 to be previously published, for the space of thirty days,
8 in one or more newspapers, as they may deem proper ;
9 at which time and place the said stockholders, in person
10 or proxy, shall proceed to elect the directors of the com-
11 pany, and to enact all such regulations and by-laws as
12 may be necessary for the government of the corporation
13 and the transaction of its business. The persons elected
14 directors at this meeting, shall serve such a period, not
15 exceeding one year, as the stockholders may direct ; and
16 at this meeting, the stockholders shall fix on the day and
17 place when the subsequent election of directors shall be
18 held ; and such elections shall henceforth be annually
19 made ; but, if the day of the annual election should pass
20 without any election of directors, the corporation shall
21 not thereby be dissolved, but it shall be lawful on any
22 other day to hold and make such election in such man-
23 ner as may be prescribed by a by-law of the corporation.

IX. That the affairs of the company shall be managed
2 and directed by a general board, to consist of eight di-

3 rectors, to be elected by the stockholders from among
 4 their number, at the first and subsequent general annual
 5 meetings, as prescribed in the eighth section of this act,
 6 until such time as the State may subscribe, when the
 7 State shall be entitled to four directors, to be appointed
 8 by the Governor, by and with the advice of his council,
 9 and four to be elected by the stockholders: that no
 10 one shall serve as a director who is not a stockholder.

X. That the election of directors shall be by ballot, each
 2 stockholder having as many votes as he has shares in
 3 the stock of said company; and the person having a
 4 majority of all the votes polled, shall be considered as
 5 duly elected.

XI. That the president of the company shall be elected
 2 by the directors, from among their own number, in such
 3 manner as the regulations of the company shall prescribe.

XII. That at the first general meeting of the stockholders,
 2 to be called under section eight of this act, a majority
 3 of all the shares subscribed shall be represented before
 4 proceeding to business; and if a sufficient number do
 5 not appear on the day appointed, those who do attend
 6 shall have the power to adjourn from time to time, until
 7 a regular meeting shall be thus formed; and at such
 8 meeting, the stockholders may provide, by a by-law, as
 9 to the number of stockholders and the amount of stock
 10 to be held by them, which shall constitute a quorum for
 11 transacting business at all subsequent regular or called
 12 meetings of stockholders and directors.

XIII. That in all elections, and upon all votes taken in any
 2 general meeting of the stockholders, upon any by-law
 3 or any of the affairs of the company, each share of stock
 4 shall be entitled to one vote, and that any stockholder
 5 in said company may vote by proxy; and proxies may

6 be verified in such manner as the stockholders by by-
7 laws may prescribe.

XIV. That the general commissioners shall make their
2 return of the shares of stock subscribed for, at the first
3 general meeting of stockholders, and pay over to the
4 directors elected at said meeting, or their authorized
5 agent, all sums of money received from subscribers ; and
6 for failure therefor, shall be personally liable to said
7 company, to be recovered at the suit of said company
8 in any Superior Court of law in this State, within the
9 county where such delinquent or delinquents may re-
10 side, and in like manner from said delinquent or delin-
11 quents' executors or administrators, in case of his or their
12 death.

XV. That the board of directors may fill all vacancies
2 which may occur in their body during the period for
3 which they have been elected, and in the absence of the
4 president, may fill his place by electing a president *pro*.
5 *tem.* from among their number.

XVI. That all contracts or agreements, authenticated by
2 the president and secretary of the board of directors, shall
3 be binding on the company without a seal, or such a
4 mode of authentication may be used as the company,
5 by their by-laws may adopt.

XVII. That the company shall have power and may
2 proceed to construct, as speedily as possible, a railroad,
3 with one or more tracts, of the same width of the North
4 Carolina railroad, to be used with steam power, which
5 shall extend from the most practicable point at or near
6 the town of Beaufort, in Carteret county, in the manner
7 prescribed in the second section of this act, to the termi-
8 nus of the North Carolina railroad, at or near the town
9 of Goldsboro', in the county of Wayne, and said com-

pany may use any section of the railroad constructed by them, before the whole of said road shall be completed.

XVIII. That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandise and produce over the said railroad, to be by them constructed, at such charges as may be fixed on by a majority of the directors.

XIX. That the said company may, when they see proper, farm out their right of transportation over said railroad, subject to the rules above mentioned; and the said company, and every person who may have received from them the right of transportation of goods, wares and produce, on said railroad, shall be deemed and taken a common carrier, as respects all goods, wares, produce and merchandise entrusted to them for transportation.

XX. That the board of directors may call for the payment of the sums subscribed as stock in said company, in such instalments as the interest of said company, may, in their opinion, require: the call for each payment shall be published in one or more newspapers in this State, for the space of one month before the day of payment, and on failure of any stockholder to pay each instalment, as thus required, the directors may sell at public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company by such stockholder, and convey the same to the purchaser at said sale; and if said sale of stock do not produce a sum sufficient to pay off the incidental expenses of the sale, and the entire amount owing by such stockholder to the company, for such subscription of stock, then and in that case the whole of such balance shall be held and taken as due at once to the company, and may be recovered of such stockholder or

19 his executors, administrators or assigns, at the suit of
 20 said company, either by summary motion in the Court
 21 of superior jurisdiction in the county where the delin-
 22 quent resides, on a previous notice of ten days to said
 23 subscriber, or by action of assumpsit, in any Court of
 24 competent jurisdiction, or by a warrant before a justice
 25 of the peace, when the sum does not exceed one hun-
 26 dred dollars; and in all cases of assignment of stock,
 27 before the whole amount has been paid to the com-
 28 pany, then for all sums due on such stock, both the
 29 original subscribers and the first and all subsequent
 30 assignees shall be liable to the company, and the same
 31 be recovered as above described.

XXI. That the debt of stockholders, due the company
 2 for stock therein, either as original proprietor or as
 3 first or subsequent assignee, shall be considered as of
 4 equal dignity with judgments in the distribution of as-
 5 sets of a deceased stockholder, by his legal representa-
 6 tive.

XXII. That said company shall issue certificates of
 2 stock to its members; and said stock may be trans-
 3 ferred in such manner and form as may be directed by
 4 the by-laws of the company.

XXIII. That the Board of Directors shall once in every
 2 year make a full report on the state of the company
 3 and its affairs, to a general meeting of the stockholders,
 4 and oftener, if required; and shall have power to call a
 5 general meeting of the stockholders, when the board
 6 may deem it expedient; and the company may pro-
 7 vide in their by-laws, for occasional meetings being
 8 called, and prescribe the mode thereof.

XXIV. That the said company may purchase, have and
 2 hold in fee, for a term of years, any lands, tenements

3 or hereditaments which may be necessary for said
 4 road, or the appurtenances thereof, or for the erection
 5 of depositories, storehouses, houses for the officers, ser-
 6 vants or agents for the company, or for workshops or
 7 foundries, to be used for the said company, or for pro-
 8 curing stone or other materials necessary to the con-
 9 struction of the road, or for effecting transportation
 10 thereon, and for no other purposes whatever.

XXV. That the company shall have the right, when
 2 necessary, to conduct the said road across or along any
 3 public road or watercourse: *Provided*, That the said
 4 company shall not obstruct any public road, without
 5 constructing another equally as good and as conve-
 6 nient, nor without making a draw in any bridge of said
 7 road, which may cross a navigable stream, sufficient
 8 for the passage of vessels navigating such stream.

XXVI. That when any lands or right of way may be
 2 required by said company, for the purpose of construct-
 3 ing their road, and for the want of agreement as to the
 4 value thereof, or from any other cause, the same cannot
 5 be purchased from the owner or owners, the same may
 6 be taken at a valuation, to be made by five commis-
 7 sioners, or a majority of them, to be appointed by any
 8 Court of Record having common law jurisdiction in
 9 the county where some part of the land or right of way
 10 is situated. In making the said valuation, the said
 11 commissioners shall take into consideration the loss or
 12 damage which may accrue to the owner or owners, in
 13 consequence of the land or right of way being surren-
 14 dered, and the benefit and advantage, he, she or they
 15 may receive from the erection or establishment of the
 16 railroad or work, and shall state particularly the value
 17 and amount of each; and the excess of loss and dam-
 18 age, over and above the advantage and benefit, shall
 19 form the measure of valuation of the said land or right

20 of way : *Provided, nevertheless,* That if any person or
 21 persons, over whose land the road may pass, shall be
 22 dissatisfied with the valuation of said commissioners,
 23 then and in that case the person or persons so dissatis-
 24 fied, or the President and Directors of the road, may
 25 have an appeal to the Superior Court, in the county
 26 where the said valuation has been made, or in either in
 27 which the land lies, when it may lie in more than one
 28 county, under the same rules, regulations and restric-
 29 tions, as in appeals from judgments of justices of the
 30 peace. The proceeding of the said commissioners, ac-
 31 companied with a full description of said land or right
 32 of way, shall be returned, under the hands and seals of
 33 a majority of the commissioners, to the Court from
 34 which the commission issued, there to remain a matter
 35 of record. And the lands or right of way, so valued
 36 by the said commissioners, shall vest in said company,
 37 so long as the same shall be used for the purposes of
 38 said railroad, so soon as the valuation may be paid,
 39 or when refused, may have been tendered : *Provided,*
 40 That on application for the appointment of commis-
 41 sioners under this section, it shall be made to appear to
 42 the satisfaction of the Court, that at least ten days pre-
 43 vious notice has been given by the applicant to the
 44 owner or owners of land so proposed to be condemn-
 45 ed, or if the owner or owners be infants, or *non com-*
 46 *pos mentis*, then to the guardian of such owner or ow-
 47 ners, if such guardian can be found within the county ;
 48 or if he cannot be found, then such appointment shall
 49 not be made, unless notice of the application shall have
 50 been published at least one month next preceding, in
 51 some newspaper printed as convenient as may be to
 52 the Court House of the county, and shall have been
 53 posted at the door of the Court House, on the first day
 54 at least of the term of said court, to which the appli-
 55 cation is made : *Provided further,* That the valuation
 56 provided for in this section shall be made on oath by

57 the commissioners aforesaid, which oath any justice of
 58 the peace or clerk of the Court of the county in which
 59 the land or a part of it lies, is hereby authorised to ad-
 60 minister: *Provided, further,* That the right of con-
 61 demnation herein granted, shall not authorise the said
 62 company to invade the dwelling house, yard or burial
 63 ground of an individual, without his consent.

XXVII. That the right of said company to condemn
 2 lands, in the manner described in the twenty-sixth sec-
 3 tion of this act, shall extend to the condemning one
 4 hundred feet on each side of the main track of the road,
 5 measuring from the centre of the same, unless in case
 6 of deep cuts and filling, when the said company shall
 7 have power to condemn as much in addition thereto as
 8 may be necessary for the purpose of constructing said
 9 road; and the company shall also have power to con-
 10 demn and appropriate lands in like manner, for the con-
 11 structing and building depots, shops, warehouses, build-
 12 ings for servants, agents and persons employed on the
 13 road, not exceeding two acres in any one lot or sta-
 14 tion.

XXVIII. That, in the absence of any contract or con-
 2 tracts with said company, in relation to lands through
 3 which said road or its branches may pass, signed by
 4 the owner thereof or by his agent, or any claimant or
 5 person in possession thereof, which may be confirmed
 6 by the owner thereof, it shall be presumed that the
 7 land upon which the said road or any of its branches
 8 may be constructed, together with a space of one hun-
 9 dred feet on each side of the centre of said road, has
 10 been granted to the said company, by the owners there-
 11 of; and the said company shall have good right and
 12 title thereto, and shall hold and enjoy the same as long
 13 as the same shall be used for the purposes of said road,
 14 and no longer, unless the person or persons owning the

15 said land, at the time that part of the said road which
 16 may be on the said land was finished, or those claim-
 17 ing under him, her or them, shall apply for an assess-
 18 ment of the value of said land, as herein before directed,
 19 within two years next after that part of the said was
 20 finished ; and in case the said owner or owners, or those
 21 claiming under him, her or them, shall not apply within
 22 two years next after said part was finished, he, she, or
 23 they, shall be forever barred from recovering said lands
 24 or having any assessment or compensation therefor:
 25 *Provided*, That nothing herein contained shall affect
 26 the rights of *feme coverts* or infants, until two years
 27 after the removal of their respective disabilities.

XXIX. That all lands not heretofore granted to any
 2 person, nor appropriated by law to the use of the State,
 3 within one hundred feet of the centre of said road,
 4 which may be constructed by the said company, shall
 5 vest in the company as soon as the line of the road is
 6 definitely laid out through it, and any grant of land
 7 thereafter shall be void.

XXX. That, if any person shall intrude upon the said
 2 road, by any manner of use thereof, or of the rights
 3 and privileges connected therewith, without permission
 4 or contrary to the will of said company, he, she, or
 5 they may be indicted for a misdemeanor, and upon
 6 conviction thereof, fined and imprisoned by any court
 7 of competent jurisdiction in this State.

XXXI. That every obstruction to the safe and free pas-
 2 sage of vehicles on the said road or its branches, shall
 3 be deemed a public nuisance, and may be abated as such
 4 by any officer, agent or servant, of said company; and
 5 the person causing such obstructions may be indicted,
 6 and punished for erecting a public nuisance.

XXXII. That the said company shall have the right to
 2 take at the storehouses they may establish, or annex to
 3 their railroad or the branches thereof, all goods, wares,
 4 merchandise and produce, intended for transportation,
 5 prescribe the rules of priority and charges, and receive
 6 such just and reasonable compensation for storage, as
 7 they by rules may establish, (which they shall cause to
 8 be published.) or as may be fixed by agreement with
 9 the owner, which may be distinct from the rules of
 10 transportation: *Provided*, That the said company shall
 11 not charge or receive storage on goods, wares, mer-
 12 chandise or produce, which may be delivered to them
 13 at their regular depositories for immediate transporta-
 14 tion, and which the company may have power to trans-
 15 port immediately.

XXXIII. That the profits of the company, or so much
 2 thereof, as the general board may deem advisable, shall,
 3 when the affairs of the company will permit, be semi-
 4 annually divided among the stockholders in proportion
 5 to the stock they may own.

XXXIV. [That, whenever it shall appear to the Board of
 2 Internal Improvements, by the certificate of the treas-
 3 urer of the said company, and countersigned by their
 4 president, that three hundred thousand dollars has been
 5 subscribed for and taken, and that five hundred dollars
 6 has been paid on the stock, to the treasurer of the said
 7 company, in cash or in labor performed on said road,
 8 and accepted by said company, the board of internal
 9 improvements are hereby authorized and required to
 10 subscribe on behalf of the State, for stock in said com-
 11 pany, to the amount of five hundred thousand dollars,
 12 to the capital stock of the said company, which sub-
 13 scription in behalf of the State shall be paid for as fol-
 14 lows, to-wit: four hundred and seventy-five thousand
 15 dollars in the stock of the Raleigh and Gaston Railroad

16 Company—the transfer and assignment of the said stock
 17 to be made by the Governor under the seal of the State,
 18 to the president and directors of the said Atlantic and
 19 North Carolina Railroad Company, and their assignees :
 20 *Provided*, That the State shall not be held responsible
 21 for any discount which may arise from the sale of said
 22 stock, but the same shall be taken at par value in pay-
 23 ment of the State's subscription ; and the further sum
 24 of twenty five thousand dollars of the capital stock of
 25 the Fayetteville and Western Plank Road Company,
 26 the transfer and assignment of which said stock to be
 27 made by the Treasurer of the State to the president
 28 and directors of the said Atlantic and North Carolina
 29 Railroad Company, and their assignees.]

XXXV. That, in order to raise the sum of three hun-
 2 dred thousand dollars, as herein authorized to be sub-
 3 scribed by individuals, it shall also be lawful for any
 4 corporation or county within this State to subscribe
 5 for stock in said company : *Provided*, The said corpo-
 6 ration or county be authorised to subscribe in manner
 7 as hereinafter directed and provided.

XXXVI. That, in order to enable the corporate authori-
 2 ties of any town to subscribe for stock in said company,
 3 it shall be the duty of said corporate authorities of such
 4 town to make an order stating the sum proposed to be
 5 subscribed, and then to submit the question of subscrip-
 6 tion or no subscription to the qualified voters in said
 7 town, on such terms and in such form as the authorities
 8 may prescribe, and if a majority of the inhabitants of
 9 said town, qualified to vote for town officers, shall vote
 10 in favor of such subscription, then the corporate author-
 11 ities shall appoint a suitable agent to make the same,
 12 and to represent said corporation in all such meetings
 13 as may be held of the stockholders of the said railroad
 14 company.

XXXVII. That, in order to enable said corporate authorities to raise the funds necessary to pay their subscription, it shall be lawful for said authorities, by their duly appointed officer, to cause their bonds to be issued, payable to the president of said company, on a credit of not exceeding twenty years, with interest payable semi-annually, at the rate of six per centum; which bonds shall be endorsed by the Treasurer of the State, upon the express condition that the authorities of such town or corporation shall annually levy and collect such an amount of taxes as may be sufficient to pay the interest on said bonds, and gradually to pay off and discharge the principal; and on their failure so to provide, it shall be lawful for the General Assembly to levy and collect such amount of taxes on the property and persons of such inhabitants, in said town or corporation, as shall be sufficient to pay off both principal and interest on such bonds.

XXXVIII. That it shall be lawful for the Justices of the Court of Pleas and Quarter Sessions, at the first court which they may hold, after the first day of next, for the counties of Carteret, Craven, Jones, Lenoir, Wayne, Greene, or any contiguous county to said railroad, a majority of the Justices being on the bench, to decide on the amount to be subscribed to said railroad company, in behalf of their county, and to make the necessary orders for submitting the question of subscription or no subscription to the voters of their respective counties, who may be entitled to vote for members of the House of Commons for the General Assembly, and if a majority shall decide in favor of subscription, it shall be the duty of the sheriff, under whose authority the polls are to be held, to make return thereof within five days after any such vote, under the same penalties as are now prescribed by law in regard to members of the General Assembly, to the chairman of

19 their County Courts, whose duty it shall be to call to-
 20 gether the Justices of the Peace of said county, a ma-
 21 jority of whom shall be authorized and required to ap-
 22 point an agent to subscribe for the number of shares in
 23 the stock of said company, which he shall be authorized
 24 to do by the order of said court, and thereafter to rep-
 25 resent the stock of such county in all general meetings
 26 of the stockholders ; which agent it shall be competent
 27 for the Justices to change, as to them shall seem proper.

XXXIX. That, to enable the Justices of the said County
 2 Courts to raise the sum necessary to pay said subscrip-
 3 tion, it shall be lawful for said Justices to pass the neces-
 4 sary order, which shall be placed on record, for issuing
 5 bonds for the amount subscribed, on a credit of not
 6 exceeding twenty years, bearing interest at six per cent.
 7 payable semi-annually, to the president of said railroad
 8 company, which bonds the Treasurer of the State is
 9 hereby directed to endorse, pledging the State to their
 10 payment, upon the express condition, that the Justices
 11 of said county shall annually levy and collect a tax on
 12 the property and persons of the inhabitants of said county
 13 sufficient to pay the interest on said bonds, as well as
 14 whatever sum shall be deemed necessary for the gradual
 15 payment of the principal ; and on their failure so to
 16 provide, it shall be lawful for the General Assembly to
 17 levy and collect such an amount of taxes on the persons
 18 and property of the inhabitants of such county as shall
 19 be sufficient to pay off both principal and interest on
 20 such bonds.

XL. That the president and directors of the Neuse
 2 River Navigation company, be, and they are hereby
 3 authorised, by and with the consent of a majority of
 4 the stockholders of said company, in general meeting
 5 assembled, to subscribe, in the name and on behalf of
 6 said company, for such an amount of the capital stock

7 of the Atlantic and North Carolina Railroad company,
 8 as they may think proper, to be paid for in the stock of
 9 said Neuse River Navigation company, the transfer
 10 and assessment of said stock to be made by the presi-
 11 dent and directors of the said Neuse River Navigation
 12 company, under the corporate seal of said company.

XLI. That the president and directors of the several
 2 banks of this State, by and with the consent of a ma-
 3 jority of the stockholders thereof, respectively, shall
 4 have power and authority to subscribe, in the name and
 5 on behalf of their corporation, respectively, for such an
 6 amount of the capital stock of the Atlantic and North
 7 Carolina Railroad company, as they may think proper.

XLII. That whenever the said company shall have
 2 expended the sum hereinbefore authorised, in the con-
 3 struction of said railroad, and the said sum should
 4 prove insufficient to complete the same, and to furnish
 5 the necessary cars, engines and station houses, it shall
 6 be the duty of the General Assembly, at its next bien-
 7 nial session, to authorise and direct a further subscrip-
 8 tion to the stock of said company, of one hundred thou-
 9 sand dollars, to be paid for in such State stock as the
 10 General Assembly shall then order and direct, which
 11 shall form the capital stock of said company. And if
 12 that sum shall prove insufficient to complete and stock
 13 the said road, the company may at any time increase
 14 its capital to a sum sufficient to complete said road,
 15 not exceeding one hundred thousand dollars, so as to
 16 make the total capital one million of dollars, either
 17 by opening books for new stock, or by borrowing mo-
 18 ney on the credit of the company, and on the mortgage
 19 of its charter and works, as the stockholders, in general
 20 meeting, shall direct.

XLIII. That the board of internal improvements may
 2 appoint some suitable person to represent the interest

3 of the State, in all general meetings of the stockhol-
4 holders, who shall have the right to vote on all ques-
5 tions, and to enquire into the condition of the company,
6 except in the election of the directors to be appointed
7 by the individual stockholders.

XLIV. That in case of domestic invasion or insurrec-
2 tion, the company shall transport the troops and muni-
3 tions of war of the State, free of charge.

XLV. That the following officers and servants and per-
2 sons in the actual employment of said company be, and
3 they are hereby exempt from the performance of jury
4 and ordinary military duty: the president and treasurer
5 of the board of directors, and the chief and assistant
6 engineers, the secretaries and accountants of the com-
7 pany, keepers of the depositories, guards stationed on
8 the road to protect it from injury, and such persons as
9 may be working locomotive engines, and travelling
10 with cars for the purpose of attending to the transport-
11 ing of produce, goods and passengers on the road.

XLVI. That all the works hereby required of the Atlantic
2 and North Carolina Railroad Company shall be execu-
3 ted with due diligence, and if the said road be not com-
4 pleted within six years after the ratification of this act,
5 this charter shall be forfeited.

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R E P O R T
OF COMMISSIONERS TO REVISE
AND DIGEST THE PUBLIC STATUTES.

*To the Honorable the General Assembly of the
State of North Carolina.*

The undersigned, two of the commissioners, appointed by the Governor, to revise and digest the laws, in pursuance of the Act of the last session of the General Assembly, entitled "an Act for revising and digesting the public Statute Laws of the State," beg leave to report :

In conjunction with R. M. Saunders, Esq., they received their appointment in June 1851, and immediately apportioned among themselves the entire body of the chapters of "the Revised Statutes."

The first step was the preparation of tables or indexes, by which the statutes, passed since 1836, might be digested under their appropriate chapters. As many of these statutes embraced subjects, properly distributable among different chapters of the Revised Statutes, it became necessary, not only carefully to dissect their several parts, but to select the most fitting place for their consolidation with the chapters of the Revised Statutes.

This was a work of considerable labor, and obviously indispensable, both for proper arrangement and to prevent omission of any part of the law.

This preparation having been made, they set about revising and digesting the Statutes. In the prosecution of this part of the work, they regarded it as their duty, not only to consolidate the acts passed since 1836, with those then revised, but, also, to revise the language of all the statutes, and expunge much unnecessary verbiage which often clogs the expression, and not unfrequently obscures the meaning of our laws.

They did not deem that their work would be acceptable, by simply collecting and reducing into one chapter, the statutes passed at different times upon the same subject matter, after the manner of a condensed compilation; but they thought it best, and expected, too, of them, that they should consolidate them so as to give to them the character of the unity of one enactment, thereby much abbreviating the law and effecting, if possible, the directions of the Legislature, to compress the whole into one volume.

This work of collation, consolidation and condensation, they believed they could best perform, each one by himself; and they prosecuted it in this manner till June last, when, having nearly completed, each one, his several task, they met in this city to submit the whole to a joint revision.

This part of the work required the united presence and action of all the commissioners. After this should have been completed, next was to follow the reference to the statutes revised, and to the decisions of the Supreme Court on the statutes. Then was to be prepared the index, a work requiring both time and care: and then each chapter, as revised, was to be printed for the examination and action of the Legislature. There was no provision for this important part of the work; but the commissioners had determined to procure it, if this had been the only obstacle to the completion of their labors,—leaving the compensation entirely to the Legislature. In July last, while engaged in

their labors, they were assured by one of the commissioners, who had participated in the revisal of 1836, that the printing and revision of the proof would require about three months. Having no reason, on reflection, to doubt the fact, they were made sensible at once, of the impracticability of attempting to present the work at this session of the Legislature; and R. M. Saunders, Esq., having resigned his place in the board, no further progress has been made in the joint revision since the idea of completing the work was abandoned.

The plan with which the revision had been commenced and was to be prosecuted, required time for its accomplishment; and that time was not to be had, unless all the commissioners had convened together and devoted themselves, without intermission, to the work. They did not suppose that it was expected of them, that they should abandon their profession altogether—a course which had been highly unjust to their numerous clients, and attended with great individual sacrifice to themselves.

In truth, however, the undersigned did believe, when they accepted the commission, that they could perform the work in time for the present session of the General Assembly, and were not convinced to the contrary till they convened during the past summer.

They deeply regret the delay and the public disappointment, but they are assured that a due regard to the public interest fully justifies that delay. They could not have been persuaded to offer to the Legislature a work with which they would have been so little satisfied themselves, as that which could have been prepared by them, (even if they had the power to have prosecuted it in the absence of a third commissioner,) after the information given to them of the length of time necessary for the printing.

In conclusion, they suggest, that if the Legislature shall deem it advisable to authorize a continuance of the commission, some provision be made for printing the statutes, as revised, before presenting them for legislative action.

Although not, perhaps, strictly a part of their duty, they endeavored to get the materials for ascertaining the boundaries of the several counties of the State; and for this purpose, they addressed a letter to the chairman of the County Court, the county solicitor, and clerk of the county court of every county in the State.

A copy of the letter is herewith reported.

It is exceedingly desirable that the boundaries of our counties should be accurately ascertained. The reasons are so obvious, that they need not be mentioned here.

They intended, if they had been successful, to have laid the information before the Legislature; but as yet, they have received replies from only three or four counties, and they have no reason to expect further information. In doing this, they have incurred a small printing and postage bill, which will be presented during the session for payment, if it may please the Legislature to allow it.

Respectfully submitted.

ASA BIGGS, }
B. F. MOORE, } Commissioners.

November 10, 1852.

RALEIGH, December 12, 1851.

*To the Chairman of the County Court, County Solicitor,
and Clerk of the County Court of County :*

We find it impracticable, from the materials accessible to us, to ascertain the boundaries of the counties. We desire to attain as much accuracy as possible, and now address you, with the hope that you will give us all the aid you can as to the boundary of your county ; and, if necessary, that you will submit the matter to your Court. If the boundary is well ascertained, please inform us what part of it, and how ascertained ? If any portion is not yet ascertained with accuracy, state the same particularly. We desire you to furnish us the boundary of your county from the best information in your power, as early as practicable, and at farthest during the next Summer, with any suggestions you may think proper to make, preparatory to the Report we expect to make to the next General Assembly. As it is important, for many reasons, that the boundary of your county should be settled and known, if not already done, we suggest the propriety of having the same ascertained under the direction of the Court.

Your particular attention is requested, and will much oblige,

Your obedient servants,

R. M. SAUNDERS,

B. F. MOORE,

ASA BIGGS,

Commissioners to Revise the Statutes.

UNIVERSITY OF N.C. AT CHAPEL HILL



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